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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/009,906

09/19/2002

Harry Louis Platt

H04Q 7/20

4722

7590

07/21/2005

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EXAMINER

JACKSON, BLANE J

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/009,906	<b>Applicant(s)</b> PLATT ET AL.	
	<b>Examiner</b> Blane J Jackson	<b>Art Unit</b> 2685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Response to Amendment*

1. In the applicant's Remarks, it is pointed out that the present invention provides a method for transmitting frequency modulated data signals over a digital telephone network that filters the frequency modulated data signals transmitted. Due to the brevity of the Specification, the method to make and use the invention was not readily apparent. After consideration of other prior art, it appears as though the information is loaded into the CPU (not discussed or shown), the signals are mixed or combined to be played out through the speaker (not discussed or shown) *where the speaker is positioned in the proximity of an active digital telephone for subsequent transmission to a remote site.* With this in mind, the amendment to the "Best Mode of Carrying Out the Invention" was carefully reviewed in view of the apparent application. Even though the amendment and subsequent claims are in better form with some clarity, the content is a reorganization of material already contained in the Specification and does not adequately describe how to make and use the invention, especially the concept of "mixing" and evidence of the desired result to meet the inventive concept.

The first action 35 USC 112 first paragraph rejection is maintained but revised in the following rejection for clarity.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The identity of FM ECG2 or the relationship to FM ECG1 is not defined.

The composition and application of the "push-pull speaker driver" is not clearly defined.

As to claim 4, the type or method of mixing claimed as "mixing the pseudo random sequence generated with the frequency modulated data signals" is not defined and consequently does not define the result of the mixing "for producing frequency modulated data signals having more than one frequency" to avoid the claimed filtration in digital cellular telephones.

As to claim 5, there is insufficient support in the Specification for the method of "modulating the frequency modulated data signals produced by said mixing step with respect to amplitude".

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. A mixer and an amplitude modulator to enable an understanding of the method of the signals mixed and

modulated must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Conclusion***

4. The following prior art is made of record and not relied upon but considered pertinent to the applicant's disclosure. US 3,986,498, US 3,872,252 and US 5,474,090 are introduced in the applicant's amendment of 14 February 2005 and these and the following were discussed in the PCT/AU00/00655: US 5,458,122, US 5474,090, EP

0351 008 A2, US 4,694,471, US 4,262,283, US 3,986,498, US 3,426,150, US 3,872,252 and IEE Proceedings, Volume 135, No. 5, issued 1998, "Simultaneous Voice and Data Transmission in Private Mobile Radio Using a Narrowband FM Channel".

The following prior art is made of record and identified by the examiner: Albert et al. (US 5,735,285) discloses transmission of frequency modulated biomedical waveform data via wireline or wireless telephone. Geva (US 2002/0128804) discloses a personal cellular health monitor that digitizes the data for transmission through the GSM wireless telephone system. Platt et al. (US 6,485,416) discloses a health monitoring device that provides acoustically coupled tonal data signal to the cellular phone handset. Groff et al. (US 6,102,856) discloses a wearable health monitoring system that transmits data by a voice or data mode. Saltzstein et al. (US 5,941,829) discloses an apparatus to provide vital sign data and two-way voice interaction using a modem via a PSTN line.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blane J Jackson whose telephone number is (571) 272-7890. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJJ

  
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